

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Civil Action No. 3:21-cv-00501-RJC-WCM

Civil Action No. 3:23-cv-00598-RJC-WCM

FS MEDICAL SUPPLIES, LLC,

Plaintiff,

v.

**TANNERGAP, INC. AND TANNER
PHARMA UK LIMITED**

Defendants;

and

FS MEDICAL SUPPLIES, LLC,

Plaintiff,

v.

**TANNER PHARMA UK LIMITED;
RAYMOND FAIRBANKS BOURNE;
MARY EVERETT BOURNE,**

Defendants.

**DEFENDANTS' MOTION TO
MODIFY DISCOVERY
COMPLETION DATE TO
PERMIT DEPOSITIONS
AFTER DECEMBER 6, 2024**

Defendants move the Court to modify the discovery schedule in the two above-captioned cases, which are consolidated for discovery. Defendants ask the Court to permit a limited number of depositions to be taken after the current discovery cut-off date of December 6, 2024. Defendants do not request that the Court alter the schedule for briefing summary judgment motions, for trial, or for any other purpose. Defendants request the modification to the discovery schedule because it has proven

to be infeasible to complete deposition discovery by the current cutoff date of December 6, 2024, for the reasons set forth in the Memorandum submitted herewith. Defendants respectfully move the Court to modify the discovery completion date for the limited purpose of permitting additional depositions in the two above-captioned cases, which are consolidated for discovery. The deadline for completing discovery has not been previously extended.

The parties have discussed and conferred about scheduling fact and expert depositions extensively through telephone calls, video conferences, in-person conversations during and after depositions, and over the course of at least 75 emails. Although Defendants have attempted in good faith to reach agreement with Plaintiff, Plaintiff's position with respect to the discovery at issue has changed repeatedly, with new issues being removed from and added to the negotiating table as late as yesterday evening. As a result, although Plaintiff has previously agreed to conduct at least some depositions after December 6, Defendants have not been able to reach an agreement with the Plaintiffs that will allow a stipulation to be presented to the Court.

Deposition discovery cannot be conducted after December 6 absent Court permission. Accordingly, Defendants are submitting this motion so the Court can address the discovery schedule at the hearing on November 20, 2024. Defendants will continue to attempt to reach agreement with Plaintiff as to depositions to be conducted after December 6.

WHEREFORE, Defendants move this Court for an Order (a) extending the discovery completion deadline to permit (i) certain expert depositions that cannot reasonably be conducted prior to December 6, (ii) depositions of the Plaintiff's three former associates, whose depositions are delayed based on Plaintiff's motion for a protective order, (iii) completion of the depositions of Plaintiff's two member-principals (one of whom is a Rule 30(b)(6) designee and a designated inside "expert") who have refused (upon their attorney's instructions) to answer deposition questions, and (iv) such other depositions as may be appropriate in light of the Court's ruling on pending motions at the hearing scheduled for November 20, 2024, and (b) to afford Defendants such other and further relief as may be just and proper.

This the 8th day of November, 2024.

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